

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

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ALLSTATE INSURANCE COMPANY; ALLSTATE	:	NO. 5:16-cv-04276-EGS
INDEMNITY COMPANY; ALLSTATE PROPERTY &	:	
CASUALTY INSURANCE COMPANY; ALLSTATE	:	
VEHICLE & PROPERTY INSURANCE COMPANY	:	
	:	
v.	:	
	:	JURY TRIAL DEMANDED
ELECTROLUX HOME PRODUCTS, INC.	:	

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**DEFENDANT ELECTROLUX HOME PRODUCTS, INC.'S  
MEMORANDUM OF LAW IN SUPPORT OF ITS MOTION IN LIMINE TO  
PRECLUDE EVIDENCE ABOUT PERSONAL INJURIES AND DEATHS**

Defendant Electrolux Home Products, Inc. ("Electrolux"), through its counsel, files the within Memorandum of Law in Support of its Motion in Limine requesting that this Honorable Court enter an Order precluding evidence about claims involving personal injuries and/or deaths allegedly caused by Electrolux-manufactured dryers.

**I. STATEMENT OF FACTS**

This consolidated action arises out of eight fires that occurred on the properties of Allstate's insureds. This is a subrogation action. Allstate seeks reimbursement of the money it paid to its insureds pursuant to their insurance policies as a result of the subject fires. None of the insureds were injured as a result of the fires, nor do any of the claims involve a death. Despite this, Electrolux anticipates that Allstate will attempt to introduce evidence at trial about "personal injury, [and] wrongful death . . . claims allegedly arising from ball-hitch dryer fires." (*See, e.g.*, Doc. 111-1 at 3.) Even to the extent that Allstate can satisfy the standard for demonstrating that any such claims are substantially similar to the claims in this case (*see* Electrolux's Motion in Limine to Preclude the Admission of Evidence About Other Dryer Fires

That Does Not Arise Out of Substantially Similar Incidents, filed contemporaneously with this Motion), the probative value of evidence about claims involving personal injuries and death is substantially outweighed by its prejudicial effect and should be excluded.

## **II. LEGAL ARGUMENT**

### **A. Where the probative value of evidence is outweighed by its prejudicial effect, that evidence must be excluded.**

Relevant evidence may be excluded when its probative value is “substantially outweighed” by the danger of “unfair prejudice, confusing the issues, misleading the jury, undue delay, wasting time, or needlessly presenting cumulative evidence.” Fed. R. Evid. 403. The Rule requires a district court to balance the prejudicial effect of evidence against its probative value. *E.g., Forrest v. Beloit Corp.*, 424 F.3d 344, 356 (3d Cir. 2005) (“Notwithstanding the potential relevance of such evidence under Rule 402, its probative value must be carefully balanced, pursuant to Rule 403, against its possible prejudicial effect.”).

Evidence is prejudicial when it has “an undue tendency to suggest a decision on an improper basis.” *Sweitzer v. Oxmaster, Inc.*, No. 09-5606, 2011 WL 721907, at \*2 (E.D. Pa. Mar. 2, 2011) (internal citation omitted); *see also Bhaya v. Westinghouse Elec. Corp.*, 922 F.2d 184, 188 (3d Cir. 1990) (explaining “a textbook example of unfair prejudice” occurs when evidence suggests “that a party committed wrongs other than those at issue in a case . . . because such evidence may influence a jury to return a verdict based on a desire to punish for the other wrongs.”).

**B. Because its probative value is substantially outweighed by the potential for undue prejudice, evidence about personal injuries and deaths should be excluded.**

There is no dispute that the claims in this case arise out of property damage purportedly caused by defects in Electrolux-manufactured dryers. No one was injured in any of the fires at issue, nor did any of the fires result in death. Despite this, Allstate has stated that it intends to introduce evidence at trial about “personal injury, [and] wrongful death . . . claims allegedly arising from ball-hitch dryer fires.” (*See, e.g.*, Doc. 111-1 at 3.) Such evidence serves no legitimate purpose other than to inflame the jury’s emotions and invoke “its desire to punish” Electrolux “for . . . other wrongs” not at issue in this case. *Bhaya*, 922 F.2d at 188.

Allstate cannot rely on the relevance of such evidence to gain its admission at trial. Rule 403 requires this Court to “carefully balance[]” the probative value of evidence about claims involving personal injuries and deaths “against its possible prejudicial effect.” *Forrest*, 424 F.3d 344, 356 (3d Cir. 2005). Given Allstate’s contention that it intends to introduce evidence of 6,000 other claims at trial (*see, e.g.*, Doc. 111-1 at 3), it is likely that Allstate can identify claims that serve the same purpose that do not involve injuries that will inflame the jury’s emotions in this case. Because evidence about claims involving personal injuries and death serves no purpose other than to inspire the jury to punish Electrolux for conduct not at issue here, this evidence is a “textbook example” of evidence that must be excluded under Rule 403. *Bhaya*, 922 F.2d at 188.

**III. CONCLUSION**

For all of the foregoing reasons, Electrolux respectfully requests that this Honorable Court grant its Motion in Limine and enter an Order precluding evidence about claims involving personal injuries and/or deaths allegedly caused by Electrolux-manufactured dryers.

Respectfully submitted,

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DATE: January 8, 2019

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that the foregoing Memorandum of Law in Support of Electrolux Home Products, Inc.'s Motion in Limine to Preclude Evidence About Personal Injuries and Death was served electronically on the date stated below, upon the following:

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